No. 4265.484

GIVEN BY

Mrs. Edward C. Cabot.

MEMORIAL

ON THE

PERSONAL LIBERTY LAW.

4265.484

HOUSE....No. 121.

Commonwealth of Massachusetts.

REMONSTRANCE.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts, the Memorial and Remonstrance of the undersigned, citizens of Massachusetts respectfully represents:—

That we are opposed to the repeal of the law, known as "The Personal Liberty Law," not because we are averse to any just and honorable means of saving the Union, and the misguided men who are battering at its peace and existence, but for the reasons which follow:—

We hold that "the fugitive slave bill," so called, is unconstitutional and void. The federal government possesses no powers, except those expressly conferred upon it by the constitution. That instrument is to be interpreted by the same rule as any common written obligation. Nothing unexpressed in it is to be done, or required under it, any more than he, who gives a note or a bond, can be required to pay more money, or do any other thing than that which is therein expressed.

Article 4, Section 2, of the Constitution of the United States, ordains that three things shall be done:

1. The citizens of each State shall be protected in every other State, in the enjoyment of all privileges and immunities of citizens of that other State.

2. Fugitives from the justice of any State, found in another State, shall be delivered up on demand of the State from which they fled.

3. Fugitives from service or labor, required of them by the laws of the State from which they fled, shall be delivered up, on claim of the persons to whom such service or labor is by such laws declared to be due.

Congress cannot do either of these things, because powers to do them are not expressly given to Congress. This conclusion results from the simple application of the rule of interpretation. But the people, who ratified the Constitution, and gave it all its vitality, having a wholesome dread of the uncertainty of law, and the perpetual contradictions of its most eminent expounders, would not leave to legal interpretation a point so dangerous, as the unceasing tendency of superior force to infringe on inferior. Therefore, contemporaneously with her ratification of the Constitution, Massachusetts added this amendment, which was adopted by all the States:

"The powers, not delegated to the United States by this constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It is, therefore, to the legislatures and peoples of the States, that the powers to execute the three clauses above mentioned, appertain.

In the same fourth article, there are three other sections, embracing *six* clauses, all like the preceding, having relation to States or territories. Each of *these* six clauses not only defines a duty, but also conveys to Congress, by express grant or command, a power to do it.

Now, in the light of a universal rule of interpretation, and in view of the jealous care of the fathers to embody that rule in an amendment, can it be pretended that these six clauses, each with an express power annexed, stand on the same footing as the three first mentioned clauses, left naked of express powers? Or will some gentleman of legal intelligence rise and tell us that plain men and women cannot understand this constitution, and must take the interpretation of it, as blind superstition takes the interpretation of sacred books? If so, the constitution had better never have been written. It is cheaper and less degrading to be dragooned than interpreted into passive

submission. The former may provoke inquiry, enlarge the intelligence, and stiffen the sinews for resistance; the latter dwarfs the mind and unnerves the arm.

Either the express grant of powers means nothing in *six clauses* of this fourth article, or the withholding of express powers, in the *three* remaining clauses of the same article, means something. There is but one thing which it can mean, and that is, that the powers as to those three, are reserved to the States or to the people.

It follows, that Congress had no authority to pass the fugitive slave bill, but should have left the entire subject of the extradition of fugitives from labor to the States; just as the extradition of fugitives from justice is left to our Governor, directed and controlled by the laws of this Commonwealth. Congress, it is true, undertook, without authority, to legislate on that subject also; but their statute has fallen into disuse. Our law demands different and more proof; it secures to the demanded culprit, by heavy penalties upon our officers, who are to execute the extradition, the privilege of the writ of *habeas corpus*, and reserves to the Governor absolute power to refuse the surrender, if the proof fails to satisfy him that it ought to be made. We have heard no complaint that such safeguards are thrown by Massachusetts, around personal liberty, in the person of the white fugitive from justice; and if we are not devoid of principle and feeling, this should estop complaint in respect to the colored fugitive from *in*justice. If we may in Massachusetts, under the second of the three clauses, protect, to the extent of prescribing any amount and kind of investigation we please, the liberty of the stranger, charged with crime, may we not, under the third and exactly similar clause, protect, to an equal extent, the stranger, who is only charged with being oppressed?

But if Congress had the power to pass fugitive slave bills, we submit that the existing Act would be a gross abuse of it, and for that reason, unsustainable.

The constitution ordains that—

"In suits at common law, where the value in controversy exceeds *twenty dollars*, the right of trial by jury shall be *preserved*."

The Supreme Court of the United States, before it took the stump, gave a definition of the term, "suit at common law," which, beyond all question, embraces *the prosecution before any*

tribunal of a claim by one man to the service or labor of another. (3 *Peters*, 456.)

The same court, at a later period, but still in the time of MARSHALL, decided "that the freedom of a human being is not susceptible of a pecuniary valuation;" but it is to *him*, however broken down and degraded, above all price. (*Ib.* 8, 44.)

By the constitution, therefore, a man or woman claimed as a slave, (and remember that in *Massachusetts* every man and woman is free until proved a slave, or an escaped convict,) is entitled to a trial by jury. And inasmuch as the fugitive slave bill denies him or her such trial, it is our right and duty to deny the fugitive slave bill any validity. In answer to this it is sometimes said that a person, surrendered as a slave, and carried out of the jurisdiction of this State, still retains his right to a trial by jury, and may avail himself of it in the State to which he is removed. This is specious, but as it respects the kidnapped freeman, the class which our statute aims to protect, it is illusory. All experience has shown that hundreds and thousands of the stolen children of free States, are immediately consigned to human flesh-jobbers and retailers, chained in a gang, and marched or transported to the far Southwest. Once in the grasp of the brokers and hucksters of bodies and souls, escape is hard and rare. To assert a right to freedom, is to incur savage and incessant tortures, and in case of persistence, death.—*Narrative of Solomon Northrop*, pp. 45, 57, 59, 61, 305.

The legislature of Georgia, in an Act to enable free persons of color, "taken and held fraudulently and illegally in a state of slavery by wicked white men," to recover their liberty, declares that they are "liable to be removed, whenever an effort is made to redress their grievances, so that due inquiry cannot be made into the circumstances of their detention, and their right to freedom."

Besides, the slave laws throw obstructions in the way of such persons prosecuting for their freedom. This very statute of Georgia, after its humane preamble, requires that some white person should prosecute for them as guardian, and subjects the ward, in case he fails to establish his freedom, to any kind or amount of corporeal punishment, which the court may please to order.

The judges created by the fugitive slave bill to try the question of liberty or slavery, are not judges in the sense of the constitution, and have no legitimate authority to take cognizance of a "suit at common law," or any other law. The constitution ordains that the president of the United States shall nominate, and by and with the advice and consent of the Senate, appoint all judges of the United States. The slave-catching and freeman-kidnapping commissioners, are not nominated by the president, are not confirmed by the Senate; yet they sit singly to hear and determine *without appeal*, cases more solemn and momentous than those of life and death! "Give me liberty or give me death," was the cry that went up from our fathers. Weak and in peril themselves, but trusting in the great heart and might of humanity, they lifted up their voice, not for themselves alone, but for the human race; and blazoned as the bright and morning star of the newborn nation, that its "cause was the cause of *mankind*." By this inspiration they put forth the Declaration, which terrifies oppressors, and sometimes makes them wiser; but incites the oppressed to resistence, in whatever Egyptian or dungeon darkness they may be sitting, or toiling in chains. By this inspiration the first stronghold of tyranny was summoned "in the name of the great Jehovah," and to a handful in numbers, but a host in faith and hope, it fell. The Greeks and Garibaldians, the West India slaves, and the Russian serfs were there.

Again, the constitution ordains that the judges of the United States may hold their offices for life, if they behave themselves well, shall be removable by impeachment only, and shall have a compensation payable at stated times, and incapable of diminution; thus securing, as far as human foresight can do it, their complete independence of the parties coming before them, and of all other persons and powers whatsoever. These commissioners are removable at any moment, with as little ceremony as a deputy-marshal or constable; and instead of salaries provided by the United States, they extract their perquisites from each case, which are *legally*, *five* dollars, payable by the slave claimant if they find for freedom; and *ten*, payable by the United States, if they find for slavery!

The constitution ordains that—

"The privilege of the writ of *habeas corpus* shall not be suspended unless, when in cases of rebellion and invasion, the public safety may require it."

The fugitive slave bill suspends covertly, and therefore the more guiltily, as betraying full consciousness of the deed, this sacred guaranty of personal liberty. With a meanness equalled only by its tyranny, it does this to the weakest and most helpless of men. The process of the atrocious Act for reducing a man to a slave, or to half a man, as old Homer called it, in the darkness of three thousand years ago, is so "summary," that if a commissioner is judiciously selected, and properly prepared, a man may be dragged from his bed before daybreak, tried before breakfast, and started on a journey that knows no return, without notice, without counsel, without a witness, without a friend, without a possibility of any defence. Two instances of this sort have occurred in New York, in which three persons were doomed to eternal bondage, if we suppose them to survive in their posterity, by Commissioner MORTON. Three were doomed in like manner by Commissioners NEWHALL and BROWN at Cincinnati, one in Harrisburg by Commissioner MCALLASTER, one in Zanesville by Commissioner COCHRAN and one in Philadelphia by Judge KANE. In the latter case counsel was engaged and attended as soon as practicable, after its pendency became known to the friends of freedom in that city. The judge, on the appearance of the counsellor, informed him coolly, that he had heard the case and remanded the fugitive to his master. In reply to a question of the propriety of taking so unusual an hour for the proceedings, he avowed that he had appointed it purposely, as there was no rule limiting his discretion in that behalf; and inasmuch as attempts might be made to obstruct the execution of the law, these slave cases ought to be heard peremptorily, i. e., without debate, and without a defence! In one of the Cincinnati cases, a man and his wife were tried by Commissioner *Newhall*, at a late hour of the night. He objected, at first, to take up the case at such an hour, but yielded to the imperious demand of the claimant, a Kentuckian, and before daylight the captives were consigned to the prison-house, which will probably open no more for them.

These cases give an inkling of the sort of stuff commissioners may be made of. As they are entirely irresponsible, except to the United States Circuit judges, who are all political and sectional partisans; save one, and as the law, with studied looseness, leaves an unlimited discretion as to time, place and privacy of trial, it is impossible not to apprehend that many victims are snatched, mewed up and sent off without the country having any more knowledge of them than Europe had of the transactions of the Inquisition in the dark ages.

When a case is thus wrapped up, it cannot be re-opened, though a legion of lawyers should demand it, for after that the law protects the iniquity in this wise:

The certificate of the commissioner, "given to the claimant, his agent or attorney, shall prevent all molestation of said person or persons by any process, issued by any court or judge, magistrate or other person whomsoever."

Of course this circumlocution sweeps the *habeas corpus*, unless angels should bring the writ down from Heaven! The Act, if it does what it intends, precludes all earthly means of relief. Had the fugitive slave bill said in so many words, "the privilege of the writ of *habeas corpus* is hereby so far suspended that it shall not be applicable in any case arising under this Act after certificate granted as herein provided," the Act would have been plainly void; because it would have been in direct and undeniable conflict with the constitution. But perversity, cunning and corruption find means of circumventing and evading that, which they cannot destroy, and dare not directly assail. Thus in England the great principle of the *habeas corpus* originated in Magna Charta, six hundred and fifty years ago, and was at an early period repeated and enforced by other statutes; yet owing to the arbitrary tendencies of kings, the servility and profligacy of counsellors and court favorites, the turbulence and violence of the lords of serfs, and the dependence of judges, pandering to them all, it was not carried into full practical effect, till the sturdy and persistent puritans came to the rescue and took up the battle of freedom. Then did the great writ, which has been called the greatest thing in the Great Charter, and has rendered Inquisitions, Bastiles and Siberias impossible in the realm of England, become for the first time a *folkright*, and instead of extending to *freemen* only, it

embraced in its guardian love, every man, woman and child. It was then enacted that "any person, restrained of his liberty by *order or decree of any illegal court*, or by command of the king's majesty in person, &c., shall on demand of his counsel, have a writ of *habeas corpus* to bring his body before the Court of King's Bench or Common Pleas, who shall within three days determine whether the cause of imprisonment be just."

Before Mr. Fillmore set his hand to the fugitive slave bill, he called upon Mr. Crittenden, then attorney-general of the United States, for an opinion of its constitutionality. The attorney-general felt as attorneys-general of the United States have almost always for sixty years, that "on the side of the oppressors there was power." Power is not inclined to argue. It is a troublesome and losing game. He said that Congress could not repeal the *habeas corpus*, because it would be a breach of the constitution, which the gentlemen of Congress would not commit!

The law of England is in nothing more remarkable than its distrust of men, demanding conformity to certain fundamental principles and established forms, called the constitution, and to the law of God, on the part of the legislators; and complete independence on the part of judges, in order that they may faithfully hold the legislators to that conformity, and mete out right and justice to all the people, "freely and without sale, completely and without denial, promptly and without delay." It was the first system of human laws, which made "the law of God" distinctly and in terms, a part of itself, and not merely a theological doctrine or a philosophical abstraction. The body of the English law is also our law. It is the basis of American jurisprudence, and the grammar and glossary of our statute law. It is itself statute law, enacted by the whole people of England, from the first gathering of society. It is the average sense and reason of an ancient and great people, crystallized gradually into law. Thus in the main and as between man and man, it is eminently equal, equitable and democratic. We have re-enacted it in all our constitutions, and when we speak of the science of law, we mean no other. We took it all, so far as applicable to our needs, and verily, in the material tendencies of these latter days, there is no part of it which we need more than the Higher Law.

Under a system instinct with such jealousy of men, imposing by constitutions such restraints upon lawgivers, setting such guards around the integrity of judges, rendering such unremitting homage to reason, such obedience to the will of God, and forbidding lawgivers to enact any thing else—it was an archheresy of the attorney-general of the United States to invoke the people to yield the convictions of the understanding to faith in men, and to take it for granted that the majority, who passed the fugitive slave bill was too intelligent to blunder and too upright to betray.

A fugitive slave law was passed by Congress sixty-eight years ago. This Act required the State judges and justices of the peace to try fugitive slaves, arrested as such, and brought before them, to issue, on the application of slave-hunters, writs for their apprehension, and to deliver them up, with certificates to the claimants upon presentation of the slender proof, which the statute prescribed. For fifty years this inhuman work, this "disgusting service," as even Mr. Justice Grier of the Supreme Court of the United States, has called it, was performed by Massachusetts magistrates, the highest not being exempted from the liability. In 1842, the Supreme Court of the United States decided that Congress had no power to make this requisition on State magistrates, and that the Act was so far void. In the thirty-and-one congresses of the present century, it is not probable that we have had a wiser or better than that of 1793–4. If we have, we are indebted to the slave-holders for it; because, with slight exceptions, they have actuated and controlled them all.

Mr. Crittenden makes one other point, which is, that after certificate granted, the writ of *habeas corpus*, independently of any supposed provision of the fugitive slave bill, could not issue, if the cause of the imprisonment were truly set forth in the complaint, or petition for the writ; or if it did issue, it would be set aside on the return, setting forth correctly that cause. Suppose an alleged fugitive is brought before a commissioner, tried and certificated to the claimant. Meantime it is ascertained that there is a mistake of identity, that the real fugitive is in Canada, answering perfectly the description, and acknowledging the former ownership of the claimant and his own escape. According to Mr. Crittenden, the writ of *habeas*

corpus could not issue under these circumstances, even without the operation of the fugitive slave bill. The commissioner could not save him. There can be no appeal, no review, no correction of errors; and when the victim is once consigned to the hucksters of human flesh, a hundred to one, redemption never reaches him. Such a case as this occurred, and the victim is somewhere in bonds. He never reached the claimant to whom he was adjudged; but being carried to a slave State, he was seized by another person, who claimed and carried him off. In those States, by a custom prevailing there, a master or pretended master, may take his alleged slave any where without legal process, and without investigation; tie him to his saddle-bow, and run him with whip and spur whithersoever he pleases. Mr. Crittenden would say that this victim was a sacrifice, not to any thing in the fugitive slave bill, but to the general rules of law regulating the use and determining the effect of the writ of *habeas corpus*. Of course he ignores the provision of the English law, our law, for it has never been repealed, that if the imprisonment is by an "order or decree of an illegal court," the judges shall issue a writ of *habeas corpus*, and inquire into it; and, the fact being so found, discharge the prisoner. If Mr. Crittenden's idea is correct, that the effect of the certificate is to preclude the intervention of the writ to take the certificated person from the officer or the claimant, his agent or attorney, independently of any provision of the fugitive slave bill, then the provision of that bill, prohibiting "any molestation" of the claimant, who has got his certificate, was wholly gratuitous, wanton and without purpose; unless it was to remind us that we possess no rights, or guaranty of rights, which may not be trampled down and danced on, either in the passion or the sport of the slave power, always terrible like Nero, whether committing matricide or fratricide, or firing a city and fiddling over the conflagration.

But what argument is it for the constitutionality of a law, to say that the object it proposes, would be accomplished without it? It is an excellent reason why the law should not have been passed, constitutional or not!

Was it ever before contended by a grave and skilful lawyer, that an Act of the legislature does not take away a constitutional right *because it can't*, and that therefore it is constitutional!

By this legerdemain there cannot be an unconstitutional Act! It is a mere conceit, a quibble, calculated if not intended, to mystify and confuse common understandings, to throw them into bewilderment and despair of ever arriving at any thing like certainty in this matter; and thus to choke complaint, and blast in the bud the resistance, which this oppressive and audacious provision ought to provoke.

Nor has the design, if it was design, failed. Though many lawyers and judges of eminence have pronounced this provision null, as plainly intended to violate the privilege of the writ of *habeas corpus;* on the other hand, no court, judge or attorney of the United States, except JUDGE CONKLING, of the Western District of New York, has failed to carry out the Act, if he could, in all its parts; and it remains a vexed question, whether it has any validity, or whether particular provisions have any. The supreme court of Wisconsin decided against it in toto. The supreme court of Ohio divided upon it, the chief justice giving the casting opinion in favor of the validity. But he failed last autumn to obtain a reëlection, and one of the dissenting justices, Brinkerhoff, was elected in his stead. It is probable, therefore, that the court will, on the first fit occasion, range itself on the side of freedom with Wisconsin, and with other judges and distinguished lawyers throughout the West.

Words are often acts and things. The authors of the fugitive slave bill knew that this is eminently the case in the contentions of the party, and sectional strifes of our times. Slavery envenoms every thing, and politics most of all. The Act was passed in both branches by a strictly sectional and party vote. Three northern democrats voted for it in the senate, and many of the party *bolted*, or were absent. Thirty-one northern democrats and three northern whigs, including one from Boston, voted for it in the house. It passed the house under the previous question, no discussion being allowed. A northern democrat, by preconcert, as it was said, with the speaker of the house, got the floor, as soon as the bill from the senate came up. This member, JAMES THOMPSON, of Pennsylvania, made a speech on one side, and then moved the previous question; as Atherton, of New Hampshire, did in respect to the celebrated gag-rule. Every southern member in the House voted for the bill. *Fifteen* northern senators, *eight* of them democrats, and *seven*

whigs, were absent or *bolted*. *Thirty-three* northern men, both whigs and democrats, were absent or *bolted* in the house. No southern representative was out of his seat. Five southern senators were absent or *bolted*, among them Messrs. CLAY and BENTON.

Thus the measure had a marked sectional and party, a violent and fraudulent character at its birth. It is a fraud on a representative and his constituents to prevent utterly his speaking at all, and making known their wants and will. It makes him in an important respect, perhaps the most important, no representative at all! There must of course be a limit to debate after a reasonable time, proportioned to the importance and intricacy of the question, has been spent, and *every* member, who wishes it, has been heard at least once. It was to prevent tedious and superfluous speaking on an exhausted subject, that the previous question was contrived. No man in morals and in honor, has a right to call it or sustain it in any other case. Nearly every great legislative outrage, that has shocked, embittered, and alienated the people, whether from the government or from one another, has been accomplished by the abuse of the previous question. And it is a fact, susceptible of demonstration by the records of the nation, that this discreditable trick, though constantly resorted to by the Southern interest to prevent or choke discussion, has in no instance been retaliated by the North.

The political, party and sectional majority, which passed the bill, had reason to know that the federal judiciary in all its branches and the Democratic party throughout the free States, would execute the Act to the letter, whether constitutional or not. For many years the highest federal tribunal had been gradually losing its hold on the confidence of the country. It had plainly to the perception of every intelligent and impartial man, entered upon that fanatical and desperate career of usurping political sway, or rather of being usurped by politicians, which culminated in the infamous Dred Scott caucus harangues. Every one of the members of the court, except Judge Curtis, owed his appointment to his party politics. Judge McLean did well in that, but has done very ill in other cases. He was a slave-holder in Kentucky, carried a female slave to Ohio, used her unrequited service there for a long time, and the story

of her disenthralment was not creditable to him. He was a warm partisan of General Jackson, though occupying a seat in Mr. Adams' cabinet through his entire term, and he would have been continued in Jackson's, had he not differed with the General as to the propriety of making a general sweep of post office incumbents, many of whom had been appointed by McLean himself. But a reward was due him, and he elected to take it on that exalted bench; exalted, for Marshall and his compeers were still there.

With such machinery of party, of courts, and innumerable commissioners, to be appointed by the judges of the Supreme Court in their respective circuits, "with a view, says the bill, to afford reasonable facilities to reclaim fugitives from labor," can it be doubted that Mr. Crittenden, Mr. Fillmore, and every friend of the bill were well aware that constitutional or not, its lightest word would be made heavy to harrow up thousands of wretched souls? On the strength of Mr. Crittenden's opinion, Mr. Fillmore signed the bill, and has made that his defence. He consulted the first law officer of the country, forsooth! That, in his estimation, removed all responsibility from him, though he is himself a lawyer of considerable experience. And when, on his first visit to his home in New York after his accession to the purple, he was hissed by his towsmen, he cried, "Dear citizens, I did not pass the bill," thereby increasing his shame.

> Thou canst not say I did it; never shake
> Thy gory locks at me.

Mr. Crittenden enjoys a considerable popularity here, founded much, if not mostly, upon his supposed interference to arrest the assassin-like assault on our worthy, accomplished, and heroic senator, the Hon. Charles Sumner. There has been a great mistake in this matter. Mr. Crittenden was in a position to have interfered effectually in *one-third* of the time, which it necessarily took Messrs. Morgan and Murray, of New York, to reach the spot, seize the murderous assailant, and receive the bleeding and unconscious victim, fallen partly upon an overturned desk, into friendly arms. Those gentlemen in the beginning were at a distance *three times* as great as Mr. Crittenden; and when they arrived, he was standing at a respectful

distance from Keitt's club, crying "Don't kill him!" a significant expression, marking at once the imminence of the danger, and his failure to meet it with a becoming chivalry, humanity and respect for the dignity and privileges of the body, to which he belonged. In giving his testimony before the Investigating Committee of the House of Representatives, he was uncandid and hard, persisting, in spite of a check from the committee, in calling it "a combat," "a conflict," "a fight," fifteen or twenty times in a single page; when it could no more justly be so named than the assault of the highwayman, who steals upon the unsuspecting traveller, stuns him with a blow, and then does his further will without molestation.

Of great mental powers, effective eloquence, and general liberality, his inveterate slave-holding habits and sympathies have grappled him with hooks of steel to all the schemes of slave-holding rapacity, violence and fraud, for a quarter of a century. He felt the injustice and meanness of the Mexican war as much as Mr. Clay, or any man in the country, and gave it his concurrence and support. Through all the treachery and blood of the compromise violation, and all the crimes and horrors of border ruffianism and Kansas dragonades, he betrayed a perpetual struggle between an abiding sense of justice, and his unyielding pro-slavery proclivities; and a perpetual effort to compromise between them. Thus he appeared to us all less bad, though in reality not less steadfast in the bonds of iniquity, and more dangerous, than the most unmitigated advocates of slave extension and perpetual slave-holding supremacy.

It was quite natural that with this character and these antecedents, himself a walking compromise, he should be the author and persistent defender of a scheme for compromising an insurrection; and this though he inexorably leagued with the party of his life-long adversaries, to wrest from us the benefits of the Missouri compromise, when his section and its favorite interest, for a third of a century, had been in full possession and enjoyment of the consideration for which those benefits, prospective and remote at the time, were by them in the most solemn manner pledged to us and freedom. Entering at last on fruition we were ambushed by banded Cains, who killed their brothers!

What compact have we broken? What crime have we committed? Whom have we waylaid and murdered, or attempted

to murder? The head and front of our offending is that we entertain opinions, and have given them expression in precisely the ways, which the constitution either positively requires or expressly encourages and protects. We have carried out those opinions in choosing, in obedience to the commands of that constitution, for President and Vice-President of the United States, the men whom we thought the most worthy. What then? Ought we to have carried out opinions, which we did not entertain, and chosen men whom we thought unworthy? Will the malcontents and traitors vouchsafe to tell us what we should have done? Painfully and patiently we have submitted to unworthy, aye, despicable chiefs, whom our assailers imposed upon us, even when we knew that their elevation was the fruit and consummation of gigantic and devilish frauds upon us and upon the constitution. We submitted from deference to the head and heart work of the common fathers, and tenderness to this sisterhood of States and love of peace. We have no guilt on our consciences, unless it be for submitting too long, nor blood on our hands, to offset against high treason!

Mr. Crittenden demands that we yield all the principle for which we did battle, and take that which the vanquished dictate, and attempted to dictate before the battle was joined. But this modest demand is not the half. He demands that we yield, what our fathers, and *their own* fathers, anxious as they unavoidably were to protect with united strength our infancy, refused with frowns, or would have repelled with horror. *They* would not let "slave" be lettered on the constitution. But now, for sins we have not committed, and for the propitiation of unprovoked and rank rebellion, we are all but dragooned, Kansas-like, to write it *inerasably* there; and through all coming time, and in the face of all nations, to flout it on our flag! Wigfall ferociously asks that we unlearn our religion, our literature, philosophy, civilization; that we raze from our minds our clearest convictions, from our memories the traditions of our fathers, our dearest sentiments from our hearts, and schools, colleges and churches from our land. Crittenden kindly proposes that we keep but betray and dishonor them all! The former requests that we only die for slavery; the latter that we consent to be eternally damned for it; and both, and with them Boston Breckinridges and Bell-Everetts, that we disown and

repent our well-won victory, and accept their *richly* deserved defeat. But it is not our victory to give up, but our country's and our God's! If He had not "brake in pieces the oppressors" and "mighty men without number, to set others in their stead," we could not have prevailed. And if that purification of uncleanness, which his righteous and eternal law demands, be deferred through the falseness or infirmity of the agents charged to perform it, he and his people, obedient to his heavenly will, will in due time consecrate to the work new and better ones. This republic is not to perish. Unless this world and the universe are without design, the great cause for which we believe these States and this Union were brought into being, assures their preservation; rebuked, humbled, scourged it may be, for the scourgings which we in the graspings of ambition and rapacity and the wantonness of power have inflicted upon the innocent, the weak, the humble and defenceless.

Why is it that while we are deluged with demands and bullied with threats for *conciliation* and concession, while we are teased and harried to open the constitution to all the sluices of the cesspools of slave-holding pride, ambition, avaricious greed, corruption and vanity, not a syllable is lisped about the innumerable and cowardly brutalities perpetrated upon lonely and defenceless wayfarers and sojourners from the north, peaceably engaged in the transaction of their lawful business in the south; and also upon our poor and innocent colored seamen, faithfully performing for our profit, and that of the whole country, their indispensable labors within the waters and under the flag of the Union? Why is it that the genius of liberty is forever rebuked in the presence of slavery? Perhaps the philosopher-poet has given the explanation:

> You are mortal;
> And mortal eyes cannot face the devil!

Years, "forty save one," have elapsed since South Carolina enacted a law that free colored persons, arriving on board of vessels as cooks, stewards, mariners, or in any other capacity, shall be seized and confined in jail until the vessel clears out; that when ready to sail, the captain shall pay the expenses of their detention, and carry them away; and that for refusing or neglecting so to do, he shall be fined not less than one thousand

dollars, and imprisoned six months, and the seamen taken and deemed to be absolute slaves, sold at public sale, and the proceeds placed in the treasury of the State. Your memorialists are informed and believe that the average extortion from each poor seaman or the generous merchant, has been *thirty dollars* for every outrage. As respects citizens of Massachusetts, a plainer violation of the constitution cannot be conceived, because all our colored inhabitants had been freemen and citizens of the State by our own constitution, for ten years before the constitution of the United States was adopted. Thereupon they all, upwards of five thousand in number, became citizens of the United States. Even our Supreme sectional Court did in the Dred Scott decision, fully and unanimously admit that this is so; and that the descendants of said citizens are in like manner citizens of the United States.

The very next year after the passage of the South Carolina Act, it was decided by the circuit court for that district, composed of Judge Johnson, of the Supreme Court, and the District Judge, both citizens of South Carolina, that the Act was in violation of the constitution and void. Mr. Wirt, attorney-general of the United States, when it was an honor to be attorney-general of the United States, did, one year after, at the request of Mr. Adams, secretary of state, give his opinion in the case of a British seaman, attended to by his government, entirely concurring in the conclusion of the court.

Yet this tyrannous and inhuman legislation has been continued and enforced to this day, unless vessels have ceased to enter the ports of the United States within the jurisdiction of South Carolina. Some modifications of its contemptible robbery of the poor, and its barbarous and fatal penalties, have from time to time been made, but with such ungracious delay and indifference to suffering, as too plainly to show that they have been forced by fear of the rising indignation of Christendom, rather than moved by any regard to justice, honor and good faith. The disloyal and disorganizing principle is adhered to still. And for nearly half a century American seamen in our own ports and their ports, and under the Egis of the Union, have been subjected to imprisonment, robbery, enslavement and stripes, either of which inflicted and not atoned for by a foreign

people, the proudest on the globe, would have arrayed th nation in arms!

The flagitious law was soon imitated by neighboring States and within a few years from its date, December 21, 1822, North Carolina, Georgia, Alabama, Louisiana and Florida took the infection. The case of Florida had peculiar aggravations, rendering it more than ordinarily abhorrent to humanity and decency. We had paid for her, and distributed mostly among her citizens $40,000,000, of which it is entirely safe to affirm that $30,000,000 came from the pockets of the industrious and frugal sons and daughters of the free States, and not a trifling item of it from the inoffensive and injured race, at whose peace and freedom she struck. Her law provided that the kidnapped victim of her commerce and hospitality should be sold into slavery for ninety-nine years! As she was still a territory, and as General Cass had not yet put in for the presidency, and *squatter sovereignty* had not yet been invented, Congress retained, without any question from any party or individual, the power to revise and annul the enactment. It was brought before the house of representatives in 1843, by GEORGE N. BRIGGS of Massachusetts, but instead of being torn with indignation and contempt from the statute book, it was sustained and perpetuated by the joint vote of the slave-driving and slave-driven Democrats; and became, to all intents, a statute of the United States. To give a sample of the minuteness and completeness of the inquisitorial tyranny to which we have submitted almost from the date of the government, certainly more or less for sixty years, and signally for the last thirty, it is proper to add, that one of your Memorialists, having received a copy of the Act from Mr. Briggs, carried it to the *National Intelligencer*, a Whig paper, always in the interest of slavery, but less illiberal than any Democratic press at that time in the country; and requested the editors to insert it as a part of their journal of the proceedings of the day. After taking twenty-four hours to deliberate upon it, the respectable gentlemen, who have fed all their lives on the national pap and Northern patronage, declined to insert it in any manner, and returned the copy!

From the nature of the case, it is impossible to learn the extent to which this barbarous and perfidious legislation has robbed and outraged for a limited time, or doomed to personal

enslavement and civil death the citizens of Massachusetts; for there is no examination, no trial, and consequently no record of the cases. How should there be, when the captives are accused of no offence? The facts are the secrets of the vast prison-house, written somewhere, but not so that mortals can read them, in tears and blood. The victims pass in quick succession into the dark realms of despair, and only in rare instances of good fortune are ever heard of more.

The documents of the honorable Houses for the year 1843 will show, in a Report by GEORGE BRADBURN, of Nantucket, chairman of a select committee, that JACOB BARKER, of New Orleans, native of Nantucket, narrates the cases of *five* colored seamen, working in chains on the road, or confined in jail, with whom he became acquainted by mere accident, in the course of a few days. He procured their release by generously paying $20 to $40 in each case. Of another he was able, after much effort, to effect the release without any payment, the man being found upon investigation, which but for this fortunate accident never would have been had, not to be of a complexion, subject even by the laws of Louisiana, to imprisonment and enslavement *for no cause*. A seventh broke and fled from the catch-polls, plunged into the Mississippi, and was drowned in the attempt to swim across, happy had he known a deliverer was near, but happy to be delivered even by the angel of death. Two of these men belonged to Maryland, one to Pennsylvania, one to New Jersey, one to New York, one to Massachusetts, and one to Nova Scotia.

Mary Smith, a citizen of Massachusetts, returning from New-Orleans, was cast away on the coast of North Carolina, and seized and sold as a slave. Information of her fate reached her friends in Boston, and she was rescued and restored to them by the interposition of the governor. Soon after this, and perhaps moved by this, North Carolina abolished the barbarous law.

Joseph Thomson, of Boston, was imprisoned under the law of Louisiana, with the concurrence of the master of the vessel, with whom he had sailed from New York to Bordeaux, and thence to New Orleans, as steward, at $18 a month. His wages at that time amounted to $286; and to defraud him of this sum, the master of the vessel aided in the villainy. Having learned a little French, he was able to impart his cruel situation to one

of the city guard, who bore a message to CALEB BARTLETT, a merchant of the city, native of Charlestown, Mass., who, when a boy, had sailed with him before the mast. By his assistance, and that of JOHN POUCH, a French landlord, he recovered his freedom. At that time he saw ten other colored seamen from free States, at work in the chain gang on the Levee, or confined in the Calaboose. Three of them he had known as stewards on board of vessels. Two belonged to Boston, one to Portland, and three to New York. One of the latter had a wife and four children. One of the prisoners in the Calaboose was steward of a vessel lying alongside of the Levee. Thompson, being set free, went on board the vessel, and inquired in the most respectful manner for the captain. The mate replied: "Captain 's not here; what do you want?" "The steward wants him for God's sake to come up and see him in prison, or send him his free papers." The mate then said more rough than before: "Clear out, you d—d nigger." "I then went away, and had to run to get out of the way." Mr. THOMPSON endeavored, with the aid of Mr. Pouch, but without success, to obtain the release of all these persons. Too much fees and profits were involved in the sale of these unfortunate men to admit of their liberation by any ordinary influence or pecuniary means. They were all to be sold in twenty days from the dates of their commitments. "A continued stream of free men from Boston, New York and Philadelphia," says Mr. Thompson, "was passing through the Calaboose into slavery in the country." He believed that if he had not been able to communicate with the French guardsman, he would have been consigned to life-long and hopeless bondage.

The lately deceased Dea. Robert Roberts lost three brothers-in-law, all seamen, who had been sold into slavery. One sailed in a Newburyport vessel, owned by Johnson & Co., and commanded by Isaac Stone. He was supposed to have been sold at New Orleans, having been heard of in the Calaboose, but not traced beyond. Another was sold at some place unknown, and the third by his American captain, in the West Indies. This one, after ten years of servitude, escaped to England, and became captain of a collier, between London and Newcastle. They were the sons of JUDE HALL, a valliant and distinguished soldier of the Revolution, having served eight years, and fought

in the principal engagements, beginning with the battle of Bunker Hill. At the time of his death, and for many years, he was a pensioner of the United States. He endeavored, up to the day of his decease, to get information of his kidnapped children, in which he was assisted by Mr. Roberts. They consulted several lawyers and judges, and obtained the aid of many friends to assist their search, but all in vain. Mr. Hall died without obtaining any information of the fate of either of his sons. The second has never been heard of, except that he was kidnapped and carried off. Their names were JAMES, AARON, and WILLIAM.

Eighteen years ago Massachusetts, after repeatedly and ineffectually endeavoring to engage the services of legal gentlemen in Charleston and New Orleans, selected two learned lawyers and honored citizens of her own, and sent them as her commissioners to South Carolina and Louisiana, to see to it that her citizens, toiling in their vocations in the peace of God and of the States of their sojourn, were protected in their persons and rights. Those envoys were furnished with credentials under the seal of the Commonwealth, and instructed to cause suits to be instituted in the judicial courts of those States; and ultimately, if necessary for testing the validity of those laws, to carry them by appeal to the Supreme Court of the United States. The confidence of the country was not then so much impaired in the capacity and integrity of that high tribunal. Those ministers of peace and mercy, invested by their office with personal inviolability, respected by all civilized States, were immediately, with threats of lawless violence, and in the case of one, the Hon. SAMUEL HOAR, with brutal indignities, expelled.

The highest officers of the State, though frankly and respectfully addressed, immediately upon his arrival, assumed in fact the leadership of the mob, wielding their savage demonstrations to enforce against the venerable stranger and his invalid daughter, their cowardly and ignoble threats. The infamous PRESTON S. BROOKS, then unknown to fame, aid-de-camp of Mr. Hammond, the governor of the State, was the official agent despatched from the seat of government at Columbia, to transact this reputable business. He was fitly chosen for the office,

a grace which the Slave Power seldom shows, where any purpose of service or benefit to us is involved.

For this Massachusetts had an undoubted right, by the law of nations, to demand reparation from the deck of a man-of-war, and to lay Charleston in ashes if it was refused. But she swallowed her griefs, and suppressed her just resentment, giving it no worse vent than a string of "good resolutions," of which she has adopted enough during the last thirty years of "patient sufferance," to pave all of pandemonium.

But in this disposition of the subject, the interests, and perhaps the consciences of the merchants, ship owners and navigators of Boston did not quite acquiesce. They petitioned Congress, setting forth the great wrong and injury done to the crews of their vessels, and to the commerce of the country by these high-handed invasions of the rights of persons and property; and praying that "the rights of citizenship *secured* by the constitution might be made good."

In presenting the petition, Mr. Robert C. Winthrop, stated that "no paper had ever been addressed to the Congress of the United States, which represented more of the influence, virtue, patriotism and property of the metropolis of New England." The paper bore the signatures of some hundred and fifty citizens of Boston, among whom, of the living, were:

William Appleton, J. Thomas Stevenson, E. S. Tobey, William Sturgis, Charles G. Loring, Charles P. Curtis, B. R. Curtis, George T. Curtis, Edward G. Loring, John C. Gray, &c.

And of the departed:

Abbott Lawrence, Amos Lawrence, Robert G. Shaw, William Prescott, William H. Prescott, Charles Jackson, Patrick T. Jackson, John Pickering, Josiah Bradlee, Benjamin Rich, Benjamin Rand, Franklin Dexter, &c.

The subject was referred to a select committee, of which Mr. Winthrop was chairman. They reported that the Acts complained of are in conflict with the constitution of the United States, and with most, if not all our treaties with foreign nations; that those Acts had been suspended in respect to the latter, thereby aggravating the odium with which they were justly regarded by our own citizens; that "the idea of seizing American seamen charged with no crime, in the dis-

charge of their duties, or asleep in their berths, dragging them on shore, committing them to prison without an examination, except of their skins, subjecting them to the ignominy and agony of the lash, and even to the infinitely more ignominious and agonizing fate of being sold into slavery, and all for police regulations, was too monstrous."

The committee adduce a point, decided in 1842, in the case of *Prigg* v. *The Commonwealth of Pennsylvania* (16 *Peters*, 622,) to the effect that regulations of police can never be permitted to interfere with, or obstruct, the constitutional and just rights of the owner over his slave; and they ask with a pertinency quite refreshing, all things considered, whether "if the police power cannot divest a master of his right over his slave, it *can* divest a freeman of his right over himself?" And why, "if it can make a citizen no citizen in a slave State, it cannot make a slave no slave in a free State?"

The committee say that the petitioners are entitled to redress; that great commercial interests, and the highest constitutional principles demand the repeal of the obnoxious laws; but that "*Congress seems to have no means of affording relief;* that the judiciary alone can remove the oppression, and that the States which enacted, are alone competent to abrogate these laws."

Mr. Monroe and his cabinet appear to have been of the same opinion, because he recommended no action to Congress to enable him to satisfy or to answer the British demands, except by promising his good offices with the sovereignty of South Carolina, to procure the repeal of the aggressive Acts. Mr. Adams wrote to Mr. Canning that that desirable object would probably be accomplished.

The mediation of the national government between Great Britain and little Carolina was a total failure, and the latter appears to have taken it in dudgeon, that Mr. Adams expressed so much confidence in her placability, justice, honor, and loyalty to the Union.

While such has been the interpretation of the *first* clause, Second Section, Fourth Article of the constitution, and Congress declares itself powerless to afford under it, protection to citizens of Massachusetts, or their property, in a slave State; has it

been endured that this same Congress, under the *third* clause of the same section, should impose upon us the abominable fugitive slave bill? Is it to be tolerated that a rule of interpretation, which is applied to the constitution to protect the property of southern citizens in human blood and bones in the free States—shall be *reversed* the instant that protection is asked for the persons of Massachusetts freemen, and their legitimate property in the slave States? Must we continue to wallow in such depth of slavish deference and degradation; yea, make new submissions, seeking beneath the lowest deep a lower still; to pacify and propitiate the scoffers and tramplers of the standard of the Union, the robbers of its treasures and arms, for the purpose of using them to massacre our fellow-citizens and soldiers, covered by the blood-bought emblems which that standard bears, or sink them in the bottom of the deep? Forbid it, justice; forbid it, Almighty God!

When human passions are excited to frenzy, which has been for a bad while the normal condition of one section of our country, and of an insignificant portion of our countrymen in every other section, there will be disagreement on the plainest propositions. Some of our Massachusetts politicians, Massachusetts then, were so exceedingly frenzied for the admission of Maine into the Union, even at the expense of bringing on its back the Border Ruffians and their slaves, that, in determining some question arising on the count of the votes of the Province on the subject of admission, they gravely contended in effect, that two and two make *five*. It was called "John Holmes' Arithmetic."

There will, of course, be dissenters from the construction we have given to the *triplet* of clauses. It is not new, but has been stated and enforced again and again by accomplished and distinguished lawyers, among whom have been the late Robert Rantoul, the late Horace Mann, Charles G. Loring, Samuel E. Sewall, Charles Sumner, Salmon P. Chase. We believe that their reasoning has never been answered, and never will be.

To the above might be added a long catalogue of State judges and statesmen, who admit that the argument for the construction is unanswerable, but they say that inasmuch as the practice has been otherwise settled by Congress and the federal judiciary,

they prefer, some for the better recovery, as they suppose, of their slaves, and others from a habit of setting precedent above principle, to let it go on.

> They see the truth, and they approve it, too;
> They see the false, and yet the false pursue.

In this category we count the late ANDREW P. BUTLER, senator, ARTEMAS BURT, representative, a superior lawyer, and ROBERT BARNWELL RHETT, senator, all of South Carolina, and the late DANIEL WEBSTER.

But suppose this construction is scouted, which is easy; then the scoffers have this alternative, to maintain that each of the three clauses carries, by implication, a grant of power to congress, and *they have no other* alternative. If they so hold, they are bound in consistency, self-respect and common decency, to demand that the power, so carried, shall be exerted forthwith to protect the persons and property of the freemen of Massachusetts in the slave States, as well as the slave-holder's property in his fellow-men in the free States! None can be so "sound on the goose" as not to agree to this. It is truth of the oldest kind, wrought into proverbs by nations and ages, and settled beyond appeal in the case of the Judge's Bull and the Farmer's Ox. *'Tis a poor rule that will not work both ways. What is sauce for goose, is sauce for gander.* If one be a *great* gander, he will not knock under to the goose, not even "the great Michi-gander," now that he has ceased to flatter himself with the idea of doing the *spread eagle!*

But it is asserted by "the *outer* barbarians," and echoed by the *inner ones*, that there is an absolute and overruling necessity for these laws to save the throats of the masters, just as Mr. Everett thought in 1852 that such a necessity might arise for stealing Cuba. No doubt the Carolinians set a high value upon their throats. It is the more surprising that they commit treason! It is natural that they should think them worth preserving. If it be an error, it is venial. To one who said to Dr. Johnson, "I must live," the Doctor replied, gravely, "Sir, I see no necessity for that." We have no desire to treat the Carolinians with the Doctor's rigor. We have no quarrel with

them for wishing to preserve their throats, but for behaving as if theirs were the only throats in the world worth preserving. Supposing a necessity for South Carolina, Canaanitish as she is, to live, it does not follow that others are to die like dogs or live as slaves to save or serve her! *Live and let live* is the Yankee axiom. We have no wish to exclude her from the benefit of it, even while she violates the condition, so long as there is any hope of her. We admit that she "must live," if it be only to scourge us for our national sins, and particularly for that of suffering her to sin so often and so long with impunity. And if the All-wise and Just be strict to mark iniquity, and hold us to full expiation, she has a great while to live. Here, then, whatever Dr. Johnson might have thought of the case, we have an appreciable necessity for her throat not to be cut. And now we will deal for a moment with her idea of the overruling necessity of wicked laws as the means of saving her throat.

North Carolina repealed the law some twenty-five years ago, and she still lives, and lives in remarkable tranquillity, notwithstanding she has so turbulent and unscrupulous a neighbor. How has Virginia, and, above all, Maryland, with more commerce than all the seceding States together, except Louisiana, lived without it? Why did none of the British West India Islands, with ten slaves to every white, discover this evident and terrible necessity? Why did South Carolina herself abandon the execution of the law in respect to British vessels, so that American seamen, as it was said twenty-five years ago, were in the habit of fleeing in South Carolina to British vessels for protection? Why, in a law so savage and inexorable against defenceless merchantmen and their unhappy crews, did colored men, at the guns of a man-of-war, escape this persecution, by being excepted from the operation of the Act from the beginning? Were they less dangerous to the Carolinians?

In the only case arising under this law, which has ever been tried, Judge Johnson said:

"Neither of the gentlemen [Messrs. Hunt and Holmes, counsel of the State,] has attempted to show that it does not clash with the constitution, but both have strenuously contended that *ex necessitate*, it was a power which the State must and would exercise, and Mr. Holmes concluded with the decla-

ration, that if dissolution was the alternative, he was ready to meet it."

Thus, of old, did the Satanic spirit, warring against Heaven,

> With necessity,
> The tyrant's plea excuse his devilish deeds.

The Carolina gentlemen give us the doctrine of devils without their eloquence to adorn it. Dr. Franklin thought it as senseless to argue against some men as to spit against the *wind.* We quote on the point of necessity, a southern authority, which we presume to be eminent in southern estimation, no other than the Hon. Howell Cobb, late secretary of the United States treasury, and now "president of the congress of the confederate States." In a report, made to the house of representatives in 1856, he said:—

"No necessity can justify the exercise of undelegated power. If the discharge of duties require the exercise of powers, other than those you are now possessed of, you must seek that from an amendment of the constitution, which you cannot obtain from a mere plea of necessity."

Besides seeking instant redress and future security for the colored citizens of Massachusetts, there is another thing, if possible, still more urgent to be done by northern men, who maintain the authority of congress to pass fugitive slave bills. They must demand immediate and stringent legislation, backed, if necessary, by steamers and armies, to protect from lynching, robbery and murder, their *white* fellow-citizens, who visit the south on business or otherwise. Indeed, they ought to feel deep sorrow and remorse for not having done their utmost long before this, to arrest the horrid and systematic crimes, committed in that quarter, against northern and other strangers, not only guiltless of offence, but unaccused of any—crimes, which, if fully developed by a narrator on the spot, would shock and disgust, even more than did the enormities of the Thugs, the reading public of Europe and America. The plundering, and murderous savages, composing southern mobs and vigilance committees, have rendered the greatest part of the slave-holding region more formidable to travellers and strangers,

than the ranges of the Bedoweens, Curds, and Comanches. Clamorous, merciless, blood-thirsty rabblements, start up instantaneously at the mad-dog cry of abolitionist, or even northerner, and further infuriated by whisky, an auxiliary institution, they are wielded by vigilance committees, demagogue-attorneys, quack-doctors, and by politicians of every stripe, seeking to acquire power, or desiring to use brute force for any unhallowed purpose or pitiless deed. Under this dynasty society has reached that condition of ancient barbarism, in which stranger was synonymous with enemy. Prudence and silence are no security. If a man holds any shade of opinion, adverse to slavery, however moderate or profoundly buried in his own bosom, he may find himself, at any moment, perhaps when sleeping in his bed at midnight, compelled to choose, on the instant, between taking to lying and taking a lynching.

Nor is it any exemption to entertain no particular opinions. He whose thoughts have never learned to stray beyond animal life and material pursuits, who knows no difference of East, West, North and South, except *by bad debts*, is one of the most frequent victims. Such cases *pay*, as well as glut a blind and indiscriminate hatred and vindictive rage against all Northern persons without distinction of sex.

We present as a general illustration, a condensed account of the case of a young Irishman, selected from hundreds, because the Irish in America are so generally regarded as pro-slavery, that they are not subject to the same presumption of guilt "on the goose," till they are proved innocent, as other strangers; and also to show how popular tumult, riot and outrage are allied and coöperate with magisterial arbitrariness, meanness and brutality.

A year ago last January, James Crangale went to Augusta, Ga., to collect a debt, for which he had recovered judgment in the Georgia courts, and held an execution. The first night of his arrival he received a warning from a person, professing to represent the vigilance committee, to quit the city forthwith. He learned from the messenger that he was charged with abolitionism! He utterly denied it, and explained fully his real errand. Having done this, he thought no more of the matter, and retired to bed in a chamber of the principal hotel

of the place. At midnight he was dragged from his bed by a vigilance committee consisting of some twenty persons, backed by a mob outside. This committee took possession of his valise and coat, containing his pocket-book. It appeared by the evidence at his trial, that the original intention was to hang him at once to a lamp-post in front of his hotel. But for some cause they changed their purpose, took him to the guard-house and locked him in a cell. The next day a justice of the peace came to his cell and demanded the key of his valise. He declined to deliver it, whereupon his visitor declared that his refusal would confirm his guilt, and that he himself would call the vigilance committee, and have him hung forthwith. Upon this persuasion the key was delivered up. The next morning he was taken out, and conducted to the court house, and on the way was for the first time arrested on a warrant, in which he was charged with exciting insurrection of slaves, a *capital* offence, for which he was to be immediately tried by two justices of the peace, one of them his late visitor. Happy for him, and without doubt the means of saving his life, was the engagement of Col. CUMMING, an able lawyer and kind and generous man, as his counsel. Of five witnesses examined for the prosecution, it appeared on close cross-examination, that not one had ever heard him utter an abolition sentiment or word, but they had heard from a plenty of others, that they had. The evidence too all pointed at the mercantile house of Gray & Turley, of Savannah and Augusta, the *debtors* on whom he had come to levy his execution, as the authors of the calumny; but at this point the court arrested and diverted inquiry, because they said it would injure the trade of the city with the North! Col. Cumming made an able and fearless defence of his client, by which the rabble were evidently awed. He denounced these vigilance committees as self-constituted, and raising the cry of "abolitionist!" against Northern men, *to effect their ruin and divide the spoils.* Mr. Crangale was aquitted, for there was really not a tittle of evidence against him; but the court adjudged that he should pay the costs. He asked to be conducted to his hotel by the officer in whose custody he was to be taken back to prison, to stand committed till he paid for heating the poker. There his coat and valise were restored to him,

minus his money, amounting to $100. He returned to the court and made known his loss. Thereupon the presiding magistrate told him that he was "a G— d—d fool," and asked him "if his friends had not told him he was a fool." Then he ordered him to open his valise, which he declined. The court insisted, declaring that if any abolition documents were found in it, they would hang him yet. "There were boys enough about to do it." Mr. Crangale replied, that the key having been out of his possession two days, he could not be certain that those who had taken his money out, had not put something else in. He was, however, compelled by threats to yield, and thus encounter a new peril of his life. Nothing was found except the papers in the suit of Crangale against Gray & Turley. Then the court sent to the chairman of the vigilance committee to inform him that the prisoner had no money, and to request him to come himself and pay the bill of costs. That person returned a flat refusal. Then the court despatched a messenger for the same purpose to the Mayor of the city, who had entered the complaint of exciting insurrection, but he could not be found. Mr. Crangale was then remanded. He endured incarceration a number of days more, until thoroughly satisfied that there was neither honor, honesty, shame, nor susceptibility of remorse in this popular and official *canaille*, neither fear of God nor regard to man. Again he communicated his situation to Col. Cumming, who generously came forward, paid the bill and set the captive free. The bill amounted to $15.30, $11 of which was for his arrest, and probably an additional profit of the vigilance committee.

Instances of this, not fatal kind, have occurred without number, but they are of a mild type.

In North-eastern Texas, from last midsummer to autumn, befell the most frightful, causeless and inexplicable menslaughter that has signalized the ferocity of American slavery, or stained the annals of our country. An intense drought prevailed, and destructive fires occurred. Dallas, a considerable county town, was burned. It was said that the fire was kindled in a number of places, but no proof of this has appeared; on the contrary, there have been repeated contradictions of it, and the fact that the fire took place on Sunday, a little after dinner,

affords a strong presumption that such was not the case. Men, moreover, select night and darkness for such deeds! But a vigilance committee proceeded to put slaves to the torture to extort confessions. The rule of this practice, universal in the South, and *shocking* to us, when we read of it in the histories of the Inquisition and the dark ages, is to tie up or tie down and whip till the desired confession is obtained, even if it be unto death. Many a poor slave has nobly died a martyr rather than bear false witness. Of course fictitious tales will be invented in the pauses of probation, to meet the demand, as has happened in all ages, and with men of high character and culture. It is no peculiar reproach of the ignorant and degraded slave. On this occasion a number of slaves confessed to firing the town with the aid of other slaves, and at the instigation of *whites*. Although it was represented that the entire town was swept by the flames, it must have remained rather populous, to do and suffer all the hanging that was done. Confessions were also made, that poison had been given out by whites, to be put in the wells and in the food of families by the slaves. According to newspaper reports, and private letters published in newspapers, *sixty* persons were hung at this place. Among them were a number of whites, mostly from the Western States, but there is no information how many. In one batch of twenty sufferers, it was stated that *two* were white. Fires occurred in rapid succession in other localities and counties of the same section. Henderson, another county town, was said, and probably believed, to have been fired in several places; but this was subsequently and most positively denied. The executions were continued apparently, and as some of the Texan presses said, with demoniacal delight in blood; and hideous sights and horrid sensations became, for a season, articles of the first necessity in Texan life. Many were done to death under the charge of distributing or applying strychnine, till the whole number of the dead exceeded *two hundred*. It has not appeared that these massacres proceeded on any other evidence than the confessions extorted from slaves, whose evidence, under no circumstances, is admitted against whites in the Texan courts. It is avowed by pro-slavery letter writers, that some were hung on *mere suspicion*. Of course

there were no trials. We imagine we hear some Texan exclaim, "That would have spoiled the fun!" Several Methodist ministers were hung, and one lady of intelligence and worth, a Mrs. FOSTER, on the limb of a tree. The whites were all from the North, and the question was agitated of expelling the Northern settler *en masse*, though very numerous, large owners of property, and sufferers by the fires. Probably it would have been the greatest favor that could have been done them.

Dreadful as these facts are, there remains one more dreadful than them all. Communications from the most reliable sources in Texas, including their governor, affirm, that the accusations were all forged, the confessions all false; that what the poor tortured slaves showed as strychnine, to make good their confessions on the rack, was found on chemical analysis, to contain no trace of poison; that the fires were generally accidental, catching by reason of the parched condition of that whole region; that there were a good many thieves and robbers about, as there always are, who probably set some fires to facilitate or cover their depredations; that all the ordinary causes, and all the extraordinary casualties, were imputed to Methodists, chiefly ministers, and to abolitionists, and these all lumped with Black Republicans, to make political capital! Notwithstanding these exposures, of whose general correctness there cannot be a reasonable doubt, seceding orators, and late senators of the United States, have repeated the exploded calumny, placing it among the justifications of secession. No wonder, for never was fraudulent bankrupt more put to it to make a decent schedule.

It is believed that not less than *twenty* to twenty-five Northern men, generally sojourners in the State, perished in this persecution. During the last year, ending Dec. 31, 1860, *sixteen* Northern citizens were murdered in other slave States. Their inventive genius, which had not in the past shed much brilliancy on our national annals, has been taxed to devise new and ingenious methods of torture and death. It was the favorite study of some of the most celebrated tyrants of antiquity; but when the people recovered their rights, and "God made inquisition for blood," they perished by their own cruel devices. Two white men were headed up alive in barrels, and rolled into the

Mississippi—one at Memphis, Tenn., and one at Friar's Point, Miss., and one in like manner into the Alabama river. *Seven hundred and twenty-three* Northern men, during the same year, were violently expelled, or on their arrival by the steamers, turned back, and not permitted to land. Of the latter there were *one hundred and twenty*. A large proportion of the whole were lynched by bloody stripes, shaving or half-shaving the head, whiskers and mustaches; tarring, feathering, and riding on rails, nearly drowning or hanging, and repeating the operation after resuscitation. One man was hung five times till the agony was over, and then let down. There is no probability that we have had accounts of all the cases, and especially of the worst. It is well known that the Southern presses, to whom we must be chiefly indebted for this kind of information, often observe on these subjects a severe reticence. Very recently a Massachusetts pedlar has returned, who declares that two northern men to his knowledge, were hung, of whom not the slightest public mention has been made.

Such tragedies, though of late more frequent and more bloody, are not new. They happened in the South, with catastrophes more or less shocking, seventy years ago. They commenced with the practical development of the Quaker and Franklin movement of emancipation in Pennsylvania; and at that day the Quakers were the exclusive or nearly exclusive sufferers. The celebrated and venerable minister of the Friends, ELIAS HICKS, was threatened with violence and death. Sixty-eight years ago, ELI WHITNEY'S great invention, the cotton-gin, was seized and dragged from the house of the widow of General GREENE in Georgia by a mob of chivalrous burglars of the highest respectability, before he could obtain a patent; and he was thus wholly despoiled of the profits during the first fourteen years. When he applied to Congress to extend it for a second term, the Southern members went *en masse* against it, and it was rejected!

That such monstrous and heart-rending facts, such massive, overwhelming, merciless and bloody enormities, that words are weak and tire to detail them, should be forgotten, or ignored during all the clamor for new concessions, new guarantees of slavery and its crimes, and humble atonement, in bated breath

and self-abasing acts, for giving our votes for a President and Vice-President of the United States, as the constitution requires, is in our view the most melancholy circumstance attending our present troubles. That a headlong hurry of old Massachusetts to unconditional surrender and self-degradation, a blind and insensate furor, intolerant of pause or reason, trampling down with heels of hired ruffians, the most precious of constitutional and God-given liberties, "the liberty to know, to utter, and to argue freely according to conscience,"—should have derived their origin, and greatest pressure from a class of men in our midst, for whose gain many, and through whose criminal indifference in the past and in power, all these innocent victims have been immolated—is an inexpressible aggravation of our grief. It impresses us with fear that absorbing selfishness, forgetfulness or contempt of eternal principles, which are the law of God, and utter insensibility to others' wrongs and woes, have become so inveterate and *predominant* in our national life, that there is little left of all that we have inherited and abused, which a just God can, consistently with his justice, spare.

In point of morals, no State nor citizen is bound to submit to an enactment, which manifestly violates fundamental and constitutional rights. It is void from the beginning, and never was nor can be for a moment, law. Prudence would indeed dictate that the peace of a community should not be disturbed and life, property and the arts and pursuits of peace, put at hazard except for gvievances of the gravest character. But there are peaceful methods of checking the encroachments of lawless power, and holding at bay the wild impatience of despotism roaring and gnashing for its prey. Such a mode is to interpose legal impediments, as did HAMPDEN in resistance of taxation by royal prerogative, and by that resistance determined the advent of the great English Revolution, the mother of the American, and starting upon the same principle. But how trivial was this cause in comparison with that of personal liberty and safety!

That the personal liberty law is such a mode of resistance, and just as legal as resistance in a judicial court, we do not doubt. Indeed it proposes no other. The fugitive slave bill precludes such resistance, robbing us of the common right of appeal.

Among its deadly sins is the crowning one, that it does not permit its sins to be inquired into, and brought to the test of reason and the constitution. They are to be sacred and inviolable, exempted from scrutiny and discussion, like the Holy Inquisition and "the peculiar institution."

The bill forbids us to go into a respectable court, like JAMES OTIS on the writs of assistance, and show the rights of free-born Englishmen, as we then were, and extort even from a Hutchinson the confession that "the court can see no foundation" for the writs; in other words that the whole thing is founded in usurpation and despotic power. What the fugitive slave bill unconstitutionally takes away, the personal liberty law constitutionally restores; and it does not betray conscious guilt by throwing insuperable or any obstacles in the way of a trial of its own constitutionality. The opportunity for this has been open for *six* years to the counsel of claimants, and to the general government, the general agent of the slave-holders. If our law had been believed by them to be unconstitutional and void, would they have neglected to blast it with nullity by a bolt from the supreme tribunal? Not one tithe of the effort, which they have put forth to drive you to a repeal, would have been necessary for its annihilation by our own learned and upright judiciary, and by that of the United States, which is neither. Until it has been tested and failed to stand the test, the legislature in the present division of opinion, is under no obligation, moral or constitutional, to touch it, even if that were not a void Act, with which it is accused of conflicting. If that is a void Act, then there is nothing with which ours, even according to its enemies, does conflict; for even they do not pretend that it conflicts directly with the constitution, but only with a law, which they claim that the constitution authorizes.

But in the present dragonade to compel a compromise with treason, and amid the daily threats, the insults, and actual hostilities of traitors, their *aiders and comforters*—when the rankest requirements, looking to nothing less than our entire and unalterable constitutional subjugation, are boldly made; shall we basely succumb and make a rush and "a mush of concession"? While South Carolina and almost every other

insurgent State are maintaining, and have been maintaining thirty to forty years an inhuman enactment, pronounced thirty-eight years ago, by her own eminent juridical son and citizen, to be unconstitutional and void; and obstructed only by the club-law of South Carolina and Louisiana from being so pronounced by the highest tribunal known at that time in the land—and all this for the invasion and subversion of Personal Liberty;—shall Massachusetts repeal, or on the present evidence change a law, never pronounced by any court to be unconstitutional, never even arraigned as such before any court, and whose only sin, so far as we know, is that it aims to preserve and defend Personal Liberty.

DAVID LEE CHILD.
L. MARIA CHILD.
ALPHEUS BIGELOW.
M. A. H. BIGELOW.
S. E. SEWALL.
T. C. SEVERANCE.
L. OSGOOD.
GEORGE L. STEARNS.
MARY E. STEARNS.
C. M. SEVERANCE.
E. P. PEABODY.
H. W. SEWALL.

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